

INDIVIDUALS

IN67

From: <KJohn1045@aol.com>
To: <ALPDSEISComments@uc.usbr.gov>
Date: 3/17/00 9:04AM
Subject: A-LP Comments

Kent E. Johnson J.D.
191 Lake Vista Dr.
Bayfield, CO 81122
(970) 884-5428 (phone/fax)
kjohn1045@aol.com (email)

March 17, 2000

Transmitted VIA EMAIL to: ALPDSEISComments@uc.usbr.gov

Mr. Pat Schumacher
Four Corners Division
Manager Bureau of Reclamation 835 East 2nd Street,
Suite 300
Durango, CO 81301-5475

Re: Comments on A-LP DSEIS

Dear Mr. Schumacher;

I have reviewed the DSEIS and have the following comments:

1. The basic design of A-LP requires a huge and continuing expenditure for uphill pumping of water. Who will pay these continuing expenses? If the U.S. taxpayers are required to pay these pumping expenses in perpetuity, I object to this project as too expensive for the intended result. Surely a more sensible way to accomplish the same objective can be found. Was the possibility of a dam on the Animas River explored? That would accomplish the same thing at a far lower construction cost and minimal ongoing expense.

2. The Bureau of Reclamation currently has a program to divest itself of completed projects. Indeed, the people at Vallecito Lake are fighting hard to protect that Bureau of Reclamation reservoir from privatization and development because of this program. Is this what will happen to A-LP eventually? The DSEIS must deal with future impacts of privatizing the reservoir, if that is the plan. Even better, a commitment never to give Ridges Basin away would be better. The water is one thing. The land is another, which apparently has been overlooked.

Thank you for the opportunity to respond to the DSEIS.

Respectfully,

Kent E. Johnson

- IN67-1 Refer to General Comment Nos. 2 and 3 for a discussion of costs and pumping water uphill.
- IN67-2 Several possibilities of constructing a dam on the Animas River or its tributaries have been evaluated in this FSEIS. These include: Howardsville Dam site on the Animas River above Silverton; Purgatory Dam site on Cascade Creek near its confluence with the Animas River; a gravity diversion structure on the Animas River above its confluence with Cascade Creek; Bondad Dam site on the Animas River near the Colorado/New Mexico state line; and Cedar Hill Dam site on the Animas River just upstream from Cedar Hill, New Mexico. All were eliminated for various reasons. Howardsville Dam was eliminated because the reservoir would inundate historic structures and also because of water quality concerns associated with mine tailings within the reservoir basis. Purgatory Dam was eliminated because the reservoir would encroach on the Weminuche Wilderness area. The Teft Diversion would convey water 48 miles by gravity flow to the Ridges Basin site. The route would go through a major resort and residential development with significant right-way-acquisition issues. The Bondad Reservoir site would inundate 10 miles of the Animas River, Highway 550 and CR 318, many residences, and oil and gas operations. The Cedar Hill site would inundate 6 miles of the Animas River, Highway 550, many residences, and gas pipelines. These are discussed in Section 2.4.2.

IN67-3 At the present time there are no plans to privatize Ridges Basin Dam.

INDIVIDUALS

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From: "Jones, Michael L (JONM)" <JONM@chevron.com>
To: "alpdseiscomments@uc.usbr.gov" <alpdseiscomments@uc.usbr.gov>
Date: 3/10/00 7:09PM
Subject: ALP DSEIS comments

1

I favor Refined Alternative 6 and ask that the USBR choose this option. It is the cheapest alternative and involves the least natural disturbance in that a large reservoir will not be built. I am confident that the interested parties can cooperate to obtain the needed and deserved water rights from existing projects and additional agreements regarding purchased water rights.

IN68-1 Comment noted.

2

It cannot be a coincidence that the cost of the dam in Alternative 4, \$195 million, is the same as the cost of the purchased lands. I don't understand this and would like an explanation. Thanx for the opportunity to comment.

IN68-2 Refer to General Comment No. 2 for a discussion of costs.

Michael Lee Jones, Certified Senior Ecologist
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INDIVIDUALS

IN69

14 April 2000

APR 18 2000

Pat Schumacher, Four Corners Division Manager
Four Corners Division of the Western Colorado Area Office
835 East Second Avenue, Suite 300
Durango, CO 81301-5475

Dear Mr. Schumacher:

These are my comments and questions on the new Draft Supplement EIS for the Animas-LaPlata Project. I am particularly concerned about two different portions of the DEIS which involve San Juan County, New Mexico and the City of Farmington.

First, on page 2-112 of Volume 1, there is a Table 2-54 which describes your preferred alternative for delivering additional treated water to the Navajos at Shiprock. It indicates that you would use Farmington's water treatment plant to treat that extra 4,680 acre feet of water per year and then pump it into a new large diameter set of pipes going out to Shiprock.

I wonder if you have made sure that our existing plant is capable of handling that much more work and also have arranged how and by whom the extra costs of electrical power, chemicals, etc. will be reimbursed to this City. Would new or extra pumps be required to pump that added amount of water into the new larger pipes?

I also wonder if Farmington Lake, where water is stored before it goes to the treatment plant, would be overburdened by having that much more water pumped into it from the Animas River. How would these changes affect the terms of this City's existing multi-year contract to supply treated water to Shiprock?

When were all of these considerations reviewed and approved by our Farmington City Council? I haven't seen the subject mentioned in the local newspaper or heard it discussed in any detail at our Council meetings, but your DEIS speaks as if all of these changes had already been cleared with our local elected officials. Please explain.

My second question is, where do you plan to measure the amount of water that is let down from the reservoir for both Farmington and the Navajos? That doesn't seem to have been touched on in the DEIS and I feel it really should have been because it is important that the full amount of our allotted water actually crosses the State line and reaches New Mexico users.

Thank you for considering and answering these points.

Elizabeth Kaime

Elizabeth Kaime
5007 Mead Ln
Farmington, NM 87402

(505)325-4002

IN69-1 Farmington has two water treatment plants with a total peak day capacity of 40 million gallons per day (MGD). The City of Farmington contract with the Navajo Tribal Utility Authority (NTUA) provides for delivery of up to 3 MGD at the connection point with the Farmington-Shiprock pipeline at a price reviewed annually and adjusted, for instance, for increases in operating costs. Currently the water treatment plants are operating at about one-half of capacity and NTUA water accounts for about six percent of the plant production. If the entire proposed Navajo Nation share of the Animas-La Plata water supply were added at this time to the plant's normal operation load, the plant would be operating at 60% of plant capacity. This percentage of use of existing facilities should not affect Farmington Lake. The contract with NTUA is subject to renegotiation at five-year intervals. As use within Farmington increases, and as the existing plant capacity is more fully used, plans for expansion and cost sharing would be anticipated.

IN69-2 The San Juan Water Commission and the Navajo Nation would contract with Reclamation for water from the ALP Project. The City of Farmington will subcontract with the San Juan Water Commission for the portion of water the City would obtain from the project. Water would be delivered to the City's diversion point. How the City handles the water beyond the diversion point will be the responsibility of the City. How the City's facilities will work is beyond the scope of this FSEIS. Presently, the City of Farmington is selling treated water to the Navajo Nation. The arrangement to sell treated water to the Navajo Nation is an agreement between the City and the Navajo Nation. The City has indicated that they will have excess capacity and can continue to treat water for the Navajo Nation for some time in the future. In the future, when additional treatment capacity is needed, the Navajo Nation would either build their own treatment plant or they could share with the City of Farmington in increasing its treatment capacity.

IN69-3 Water will be measured at the point it is removed from the river.

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IN70

April 12, 2000

Pat Schumacher
Four Corners Division Manager
Bureau of Reclamation
835 East Second Avenue
Suite 800
Durango, CO 81301-5475

Dear Pat :

Truth is a cruel mistress which at times leads where one would not have thought to go. Pursuit toward the truth in the dilemma of the Animas-La Plata project first indicated me to that the project failed to supply any delivery system to the tribes. I further discovered that the project first included mention of Indian rights only when it had been rejected for every other criterion. This led to an examination of the rights themselves.

I hope, therefore, to not repeat any of the reasons offered by others in opposition to the Animas-La Plata Project, (A-LP) but, rather, to center on the question of the validity of tribal claim for 1868 Winters Doctrine water rights. This claim is the only remaining reason for attempt to justify such a prodigal and interperpetuity waste of public resource as A-LP would be. The project fails to meet economic criteria; it disregards environmental concerns -- hence the need to introduce "sufficiency language" into its legislative formulation-- , and it would be superfluous to the existing water sources sufficient in themselves to meet the foreseeable needs of the Navajo and Jicarilla tribes of New Mexico, the Ute Mountain Ute and Southern Ute tribes of Colorado, and the residents of the Animas-La Plata and San Juan drainages. Only the (quote) "moral demand" to honor commitment to supposed water rights of the Southern Ute and Ute Mountain Ute tribes-- a consideration first introduced in the 1986 agreement -- has survived scrutiny of the project. To these claims I now turn.

Alison Maynard has published an article which demonstrates quite clearly that the Congressional Act of 1880 disestablished what had been the Indian reservation granted the Mouache, Capote and Weminuche bands of Indians in 1868. She further shows that in United States v. Southern Ute Tribe or Band of Indians (1971), the Supreme Court of the United States interpreted that Act so as to include the tribes' Winters Doctrine rights in "all the right, title, interest, estate, claims and demands of whatsoever nature in and to the land and property" then ceded in its entirety by the tribes to the United States.

I am most grateful to Mr. Scott McElroy for his pointed comments on this article, and to the indirect references made it by Solicitor Mr. John Leshy. The latter denies that the truth of Ms. Maynard's paper can be now presented judicially. His reason? The 1986 agreement with its claim for 1886 tribal rights has been accepted in court. He would imply that judicial error in a *stipulated decree*, based upon false information, would prevent a non-stipulated party's right to aid the court by presentation of correct information. No system of law could allow itself to be so

IN70-1 Refer to General Comment No. 14 concerning the validity of the Colorado Ute Tribes' water rights claims.

2185 Linda Lane
Grand Junction, CO 81501

bound and so blinded. Both authors attempt distinctions among the lands forfeited by the 1880 cession so as to claim that upon certain of these the United States was between 1880 and 1938 a "trustee in possession" for property in which the tribe maintained an equitable interest until it received payment for the land. Both authors claim that reacquisition of reservation lands in 1938 effected restoration of 1868 rights. They overlook the fact that in the claims cases of 1909 and 1938 the tribes had held the United States responsible for contract, not trusteeship violation, and the further fact that in one of these cases the United States had argued *against* such trusteeship.

In contradiction to the arduous efforts of Mr. McElroy and Mr. Leshy stand the clear judgment of the United States Supreme Court in its 1971 *res judicata* ruling. Further contradiction to their position is provided by the Southern Utes themselves in their acceptance of the decision in the recent coalbed methane case heard by the United States Court of Appeals for the Tenth District. (citation omitted) Tribal rights to the methane were predicated upon the 1909 and 1910 Coal Lands Acts, by which the United States reserved to itself the coal in lands subject to homesteading. To do this, the lands would then have had to be of public domain. In any event, Judge Babcock ruled in this case that "... the Supreme Court has left no doubt as to the meaning and effect of the 1880 Act. The central feature of the 1880 Act was the *termination of tribal ownership of the reserved lands*, and the limitation of Indian ownership to such lands as might be allotted in severalty to individual Indians." Water rights sufficient for irrigable acreage follow land as night must day. Without land, the reason for the existence of such rights ceases.

Attempt to say that the Big Horn or the Anderson cases revive reserved water rights runs afoul of such language as, in Anderson, "... On return of the property to tribal status, it becomes necessary to utilize the Winters Doctrine to assure that the tribe has sufficient water to fulfill the very purposes for which the reservation was created. We treat these lands in a manner analogous to that of a newly created federal reservation and find that the purpose for which the Winters rights are implied arise at the time of the reacquisition by the Tribe. THEREFORE, WE HOLD THAT THE TRIBE IS ENTITLED TO AN IMPLICATION OF WINTERS RIGHTS WITH A PRIORITY FOR THESE RIGHTS AT THE DATE OF REACQUISITION, RATHER THAN AN ORIGINAL..." Further, the Big Horn and the Anderson cases differ from the situation of the Ute tribes. The latter, in their 1950 settlement for \$31.4 million dollars, signed a consent agreement that their 1868 reservation had been extinguished by the Act of 1880. The settlement was inclusive of all claims and final resolution for them. Neither the Big Horn nor the Anderson cases labored under the burden of such previous agreement.

My interest in this case for claims goes far beyond its application to the Animas-La Plata dilemma. I see here that we have a test to decide whether we are a nation who reverence and abide by law, or whether we can seek to find meaning in it to suit private purposes.

For many reasons, I think that the Animas-La Plata project should not be built. For this reason, to preserve with honor our system of law, as articulated by the United States Supreme Court and as corroborated in subsequent hearings on related issues, I know that the project must not be built.

I trust that reason will prevail in this issue. I hope that the non-structural alternative offered by

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(con't)

2185 Linda Lane
Grand Junction, CO 81501

the Citizens' Progressive Alliance (CPA) will convince of its merits and be allowed to benefit all of the legally identified parties to this issue. Should the matter go to litigation, however, I look with confidence to fulfillment of that prediction by the most unexpected source of Sam Maynes himself, longtime propogator of the legal fiction of 1868 tribal rights, that his cause would not be winnable in court.

Thank you,



John Kiernan

~~Thank you.~~

INDIVIDUALS

IN71

From: Jack's Plastic Welding <jacks@frontier.net>
To: <ALPDSEISComments@uc.usbr.gov>
Date: Thu, Apr 13, 2000 9:09 PM
Subject: ALP alternatives

To Whom it concerns:

Here are my comments about the preferred alternative for the Animas LaPlata project.

1

I have read the Summary of the Draft Supplemental Environmental Impact Statement. The main focus of this document is how to satisfy the claims that The Native Americans have on water rights. No place in this document is there an alternative to the Colorado Ute Indian Water rights Final Settlement Agreement. This agreement is the source of the problem associated with this project.

The agreement was made before any of the taxpayers had any input into the project. We operate in a free society where taxpayers are electing officials to make decisions for us. The original project cost was estimated at 750 million plus. We could not sit quietly by and watch this kind of waste.

There seems to be some disagreement as to the validity of the water rights from the 1868 treaty. I for one am willing to stand by what the courts decide. If the Ute Indians own all of the water then they have a ready market for their product. It seems to me that water rights are established by prior use. In this case they may not get all of the water that they think they will be entitled to. Another Question is exactly what constitutes prior use.

All other entities in this country must come up with the money for their own water development. That is unless the government decides, with the consent of their boss, the taxpayers, to build water projects for the common good. The funds to provide us with water are reflected in our water bills. When I look at this project I see nothing that benefits me. I already have a water bill, and the city of Durango will increase my bill if more infrastructure is needed. Aztec and Farmington get the water from natural gravity. Why build a dam.

The reasons for building a dam are clear in the summary. They want a dam for more golf courses, a dude ranch, a coal fired power plant, and perhaps the sneakiest water stealing project of all, a coal slurry.

Although many people may come to the four corners to play golf, I think many more come to see the natural world and experience things like fishing in a clean river, or hiking in an area where there is an actual wildlife preserve. Golf courses and Dude ranches should stand on their own merit. This project subsidizes with public money what should be a private enterprise.

The Southern Ute Indians have, or are seeking, a variance for air quality over their reservation. It appears that they intend to build a coal fired power plant and ignore the environmental laws that govern the rest of the country. Is the Ute nation Sovereign? If so they can pay for delivery of water themselves. They must not be allowed the opportunity to use this sovereign status to make us choke on the smoke of yet another power plant, and pay for the delivery of water too. It sure seems like they are

IN71-1 Comment noted. Refer to General Comment No. 14 for a discussion of water rights.

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operating on a double standard. The government of Mexico would not make this kind of request for fear of embarrassment.

These projects should not be subsidized by the taxpayers. They should stand on their own merits. They should work based on the free market principals that this country was established for. Thomas Jefferson would be appalled at this gross misuse of power. We do not even know what the water will eventually be used for. As a taxpayer, I can not allow purchases to be made this way. This project is an insult to our responsibilities as taxpayers.

2

The Summary does not adequately address the value in leaving the water in the river, nor does it address the value of maintaining the wildlife sanctuary in Ridges Basin. Those who use the river to fish and Boat, know this value. It is a big part of why we live here.

I think that the Ute Indians should have rights to water, to be able to develop their resources that they feel are important to them. They should not be able to do this by burdening other taxpayers. They should not be able to use a precious resource like Ridges Basin wildlife area. They should use their own lands, and their own resources. Let the Utes take this to court and determine once and for all time who owns what water. Then the resource should be managed to the benefit of all.

I for one do not wish to be held hostage to this project, because the water rights settlement needs to be fulfilled. This project has a foul temperament, like smoke filled back rooms where people of power make decisions against the will of the people.

3

My preference is to let the whole thing fall apart and see if the Utes Sue for their water rights. It will cost us all a whole lot less in the long run, and the quality of life will be better.

Sincerely,

Eldon Kloepfer
Durango, Co

Jack Kloepfer
President
Jack's Plastic Welding Inc
1 505 334 8748
Fax 334 1901
Email jacks@frontier.net
http://www.jpwinco.com
shop email jacks@bwn.net

Unsolicited file attachments may be deleted. Often they are too big and cause problems with my email server.

IN71-2 Comment noted. Impacts to the environment, including the human environment and the community, were addressed for project effects on recreation and wildlife. Refer to discussions in Chapter 3 of the FSEIS.

IN71-3 Comment noted.

INDIVIDUALS

IN72



Jack's Plastic Welding INC
115 S Main
Aztec NM 87410
Phone 505 334 8748
Fax 505 334 1901
Email: jacks@frontier.net

February 8, 2000
Pat Schumacher
Bureau of Reclamation
835 E. 2nd Ave
Durango, CO 81301

Dear Mr. Schumacher,

Below I have included a letter that was written by my lawyer to remind me to write to you concerning the ALP Project. I agree 100 % with his take on this issue. There are some other issues that I want to express. In the Durango Herald the other day there was an article about the proponents stating that the majority of the water is for industrial use, and in particular for a coal fired power plant.

Why do we have to burden the taxpayers with a water system to build a power plant that can generate a net income of 1 million a day? I believe that the Navajo generating station by page can generate that kind of income. However that generating station is not producing at capacity at this time. Conservation, Solar and wind power in the next decade will make another power plant useless. Especially if we apply some of the technology and attitudes that we value for protecting the environment. We do not want another power plant with the associated pollution.

This project also directly affects my industry. I have a business that sells products to people who use the river for recreation. To take water needlessly from the river is to take jobs away that already exist in this area. Tourism and river recreation does little environmental damage, and it is a cornerstone of the area economy. Quality of life is why people wanted to come here to live in the first place, and it is why people come back to visit.

If there were to be a vote today on the project, the proponents would loose. There are many of us that can see this for what it really is. I worked hard during the first election to talk to people about the realities of this project. The vote was 47 % to 53 % if I remember correctly. Since that time, everyone I know that favored the project, and who

IN72-1 The use of water for a power plant is a potential non-binding use of water by the Colorado Ute Tribes. They may choose to not construct such a plant. If constructed, the cost of the plant would not be incurred by the federal government or local taxpayers. Also, the cost of constructing a water distribution system from Ridges Basin Reservoir to deliver water to a potential power plant would be the responsibility of the Colorado Ute Tribes or other non-federal participants. By the time the Tribes are in a position to make a decision concerning any potential construction of a power plant many factors will be considered such as the market for the power and alternative power sources such as hydroelectric, solar, wind, and available power from the Navajo Generating Station.

IN72-2 See General Comment No. 8 for a discussion of potential impacts on river recreation.

IN72-3 Comment noted.

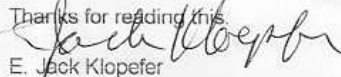
INDIVIDUALS

IN72

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(con't)

would not benefit directly from the project construction economically, has changed their mind. Let's have another vote. This time lets make it illegal for the proponents to spend our tax money to advertise for the project!!!

Thanks for reading this.


E. Jack Klopfert
President, Jack's Plastic Welding inc
www.jpwinco.com

Re: ANIMAS-LA PLATA PROJECT

Dear Mr. Schumacher:

This project will cause a myriad of undesirable environmental consequences. A biological assessment prepared for the Bureau found that the water depletions are likely to threaten the Colorado pikeminnow and razorback sucker and adversely modify critical habitat in the San Juan River. Furthermore, the assessment raises serious concerns about heavy metal bioaccumulation in the food chain of bald eagles. The high content of selenium and mercury in the reservoir water may be passed on to the eagles from the fish in their food supply. Construction of the project will also disturb the nesting eagles, despite mitigation measures.

Ridges Basin is currently a State Wildlife Area and is used by up to 2,000 elk as a prime migration corridor. It is also frequented by around 1,500 resident and migrating mule deer. The project will block their migration corridor and prevent the deer and elk from moving between summer and winter ranges. The Bureau projects that the animals will be forced to cross highways and fenced farmland to achieve their migration.

In addition to the harm to wildlife, the project will result in numerous other undesirable impacts. For one, the pumping station will consume approximately as much power as the downtown districts of the City of Durango currently use. Lower river flows will eliminate over 4,000 kayaking and rafting user days. Perhaps worst of all, there is no current need for the water; the projected future uses include the construction of two power plants, two or three golf courses, a casino-resort, and a dude ranch.

All this is going to cost the US and Colorado taxpayers nearly 300 MILLION DOLLARS, plus annual operating costs of several million dollars. Although the ALP project will settle Ute Indian water rights claims, there are better ways to achieve a settlement with the Ute tribes. A local citizens group has shown that existing water rights can be purchased and transferred to the tribes with a lower cost to the government and without a dam!

PLEASE CONSIDER ALTERNATIVES TO THE STRUCTURAL RESERVOIR AT RIDGES BASIN.
THEY SHOULD FURTHER STUDY AND RECOMMEND ALTERNATIVE #6, THE ANIMAS RIVER
CITIZEN'S CONCEPTUAL ALTERNATIVE.

INDIVIDUALS

IN72

Please call me if you have any questions. Thank you for your time and help in this matter.
Sincerely,

James H. Moss
Attorney at Law

INDIVIDUALS

IN73

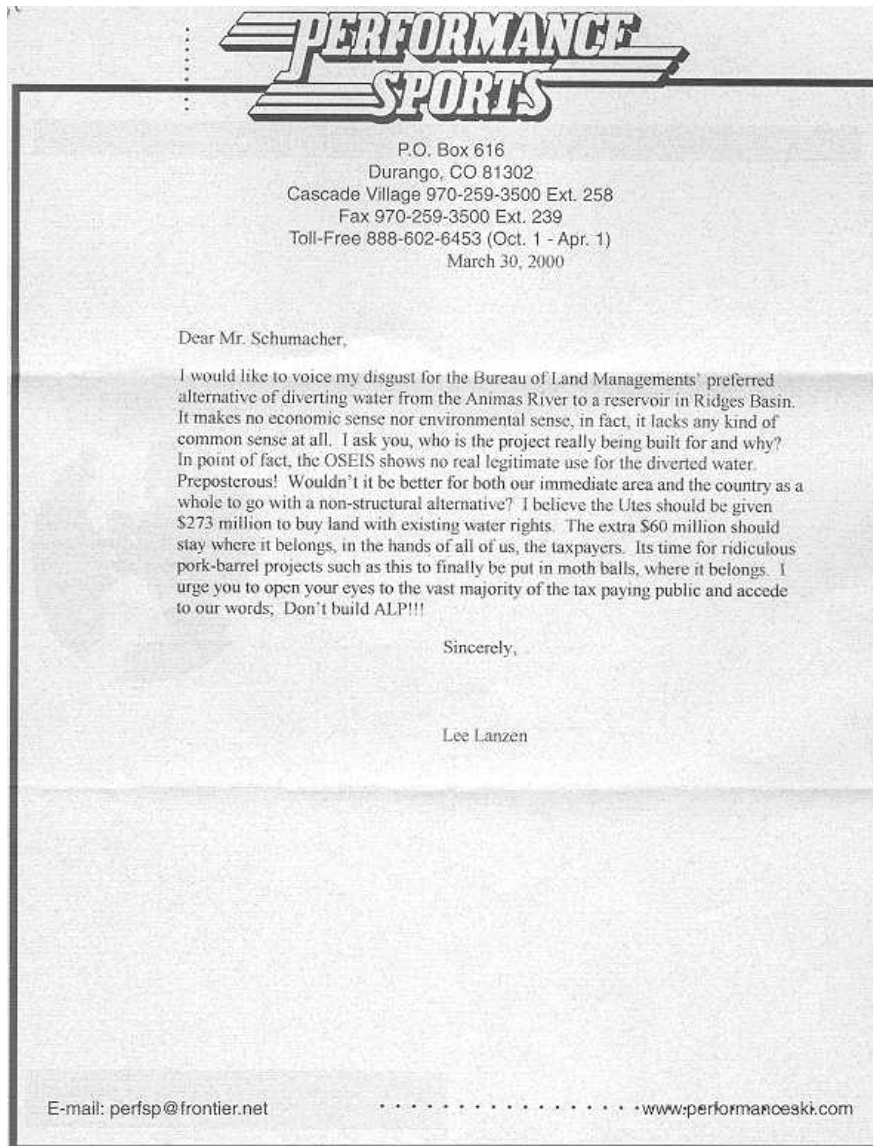
From: jkostuch <jkostuch@rmi.net>
To: <ALPDSEISComments@uc.usbr.gov>
Date: Mon, Apr 17, 2000 10:44 AM
Subject: Re: A-LP comments

jkostuch wrote:

> Julie Kostuch
> 289 Cody Lane
> Durango, CO 81301
>
> 17 April 00
>
> Mr. Schumacher,
>
> I am writing to give my input on the proposed Animas-La Plata project.
> I believe there are many problems with this project and not enough
> benefits to warrant building it.
>
> The cost of A-LP, over \$400 million is an enormous price tag. The key
> issue, addressing Indian water rights, can be solved at a much lower
> price and with less harm to the environment. Also, the potential uses
> for A-LP water, including power plants on the reservation, golf course
> resorts and recreation areas are totally unnecessary and will only add
> to the urbanization and industrialization of the four corners area. It
> is not worth taking the life out of the free flowing Animas River for
> such blatant economic gain of a small group of people, particularly
> developers.
>
> The environmental issues involved are very significant. A-LP will drain
> the Animas River to drought level flows which will impact the quality of
> the water, downriver users, and endangered species recovery efforts
> downstream. In addition, the water will enable coal mining and a coal
> power plant near Durango which will seriously impact air quality. In
> addition, A-LP will use an unprecedented amount of power to pump water
> uphill for storage. It just doesn't make sense to create a huge drain
> on energy and natural resources and use the water in part to produce
> more energy!
>
> Development for development sake is ridiculous. Durango is managing
> just fine with the water sources and storage systems currently in
> place. Use other methods to satisfy treaty rights and leave the
> magnificent Animas running free and unhindered. We owe it to our
> children and their children's children to leave some of the beauty of
> the West intact.
>
> Sincerely,
>
> Julie A. Kostuch

IN73-1 Comments noted. Refer to General Comments and Responses for additional discussion of the several issues you have raised.

1



IN74-1 Reclamation evaluated in detail the structural and non-structural components of several alternatives to meet the project purpose and need. The Preferred Alternative was superior in terms of environmental impacts, reliability, cost and technical factors. The non-structural alternative fell short of meeting the water rights requirements of the Colorado Ute Tribes.

INDIVIDUALS

IN75

From: <Patlegel@aol.com>
To: <alpdseiscomments@uc.usbr.gov>
Date: 2/13/00 3:22PM
Subject: ALP project

Dear Sirs.

Please consider alternatives to the structural reservoir at Ridges Basin, specifically the alternative #6. The era of dams is over. Enlightened planners of the future should be creative and forward thinking on the distribution of water rights.

There is so much common sense lacking here it is sad. Would you try to solve any problem by choosing the most destructive and costly method?

It is like spending \$50,000 to fix up an old pickup that you promised to someone long ago, when you can buy a new one for half that price.

If existing water rights can be purchased and transferred to the tribes with a lower cost and without a dam, how can a dam be even remotely feasible?

Thank you for your time.

Pat Legel
3500 Bingham Hill Rd
Fort Collins, Co 80521

CC: <mtnh2o@frontier.net>

IN75-1 The cost for Refined Alternative 4 is higher than the capital cost of Refined Alternative 6. However, the cost estimate for Refined Alternative 4 is more reliable, while the cost for Refined Alternative 6 has risks which could add significantly to the cost estimate. This selection process is described in Chapter 5 of the FSEIS.

INDIVIDUALS

IN76

From: Dale Lehman <lehman_d@fortlewis.edu>
To: <ALPDSEISComments@uc.usbr.gov>
Date: 2/16/00 8:39AM
Subject: comments on the DSEIS

1 |

Attached are my comments on the ALP DSEIS. I submitted them in writing at the Feb. 15 meeting in Durango, this is an electronic copy.

Dale Lehman

IN76-1 See response to Comment DWS3.

INDIVIDUALS

IN76

Dale E. Lehman, Ph.D.
8960 County Road 250
Durango, CO 81301

February 15, 2000

Mr. Pat Schumacher
Four Corners Division, Manager
Bureau of Reclamation
835 East 2nd Avenue, Suite 300
Durango, CO 81301-5475

Dear Mr. Schumacher:

I am an economist, with expertise in natural resource and environmental economics. I have 25 years experience in publication, consulting, and teaching in these areas and I wish to submit the following comments on the Draft Supplemental Environmental Impact Statement for the Animas-La Plata Project.

The writer P.J. O'Rourke has paraphrased Rose and Milton Friedman as saying

"The Friedmans argued that there are only four ways to spend money:

1. Spend your money on yourself.
2. Spend your money on other people.
3. Spend other people's money on yourself.
4. Spend other people's money on other people.

If you spend your money on yourself, you look for the best value at the best price...And if you spend other people's money on other people, any damn thing will do and the hell with what it costs."¹

With the Animas-La Plata project, the Bureau is proposing to spend other people's money on other people. Given the information contained in the EIS, the Bureau apparently does not care what uses this project is put to, nor what it costs.

But it should care. The Bureau is proposing to severely damage wildlife habitat, adversely affect the Animas River, and spend more than \$250 million of other people's money in order to provide water for an additional population of 300,000 people in an area that currently has a population of 150,000, and a coal burning power plant that nobody wants. Had the Bureau, as it should have, conducted a benefit-cost analysis the gross inefficiency of the proposed project would have been clear, and the superiority of alternatives would be apparent. Instead, the EIS

IN76-1 Refer to General Comment No. 11 for a discussion of impacts to wildlife in Ridges Basin.

IN76-2 Refer to General Comment No. 1 for a discussion of a benefit-cost analysis.

¹ P.J. O'Rourke, *Eat the Rich: A Treatise on Economics*, Atlantic Monthly Press, 1998, pp. 239-240. The original cite is Milton and Rose Friedman, *Free to Choose*, Harcourt Brace Jovanovich, 1980. The Friedman's put it somewhat more delicately: "Category IV refers to your spending someone else's lunch money on still another person. You are paying for someone else's lunch out of an expense account. You have little incentive either to economize or to try to get your guest the lunch that he will value most highly." (page 117)

benefit-cost analysis the gross inefficiency of the proposed project would have been clear, and the superiority of alternatives would be apparent. Instead, the EIS presents a distorted, inaccurate, and misleading picture that suggests that "Refined Alternative 4 [the Bureau's structural alternative] is a straightforward solution with little to no risk" whose cost "is only slightly higher than the capital cost of Refined Alternative 6 [the nonstructural alternative to provide a fund for purchasing water and land rights in place of a pumping station, dam, and reservoir]."²

In these comments I will present a benefit-cost analysis, based mostly on data provided in the EIS, and the Bureau's previous benefit-cost analysis of the earlier Animas-La Plata project.

Benefit-Cost Analysis

The Bureau shows costs of \$290.6 million for the structural alternative and \$273 million for the nonstructural alternative (I omit the now irrelevant sunk costs of \$75 million). These may represent the financial cost to the Bureau of these alternatives (although the former appears too low and the latter too large), but it does not represent the economic costs of these alternatives. The Bureau confuses economic costs and financial costs. Financial costs refer to the costs that would be reflected in any cost sharing agreement, and are important to the parties to that agreement. However, these costs are largely irrelevant to whether or not a project or alternative should be undertaken. The *economic* costs refer to real resources that are consumed by a project - the value of these resources that are foregone as a result of the project. Transfers of money between parties do not represent foregone opportunities of resource use. The Bureau is supposed to conduct a benefit-cost analysis,³ has conducted such analysis in the past,⁴ and should conduct one for this new project.

The confusion of economic and financial costs crucially impacts the Bureau's estimates of the "costs" of Alternative 6, the non-structural alternative. The Bureau cites costs of \$273 million, primarily for the purchase of land and

² Page S-48

³ The Bureau has conducted benefit-cost analyses for a long time. Commissioner Michael W. Straus, in testimony before Congress in 1952 clarified the dual standards for economic feasibility that the Bureau uses: "The first, required by reclamation law, consists of an allocation of project costs among the purposes served and a showing that the anticipated project revenues will return all reimbursable costs. The second, although not required by reclamation law, is the showing of estimated benefits and costs, and is made as a matter of Bureau policy. Thus, a reclamation project must meet two standards of economic feasibility: The estimated benefits must exceed the estimated costs and the anticipated project revenues must provide for return of all reimbursable costs." (82nd Cong., 2nd Sess., House Committee Print No. 23, at page 11) The policy of conducting benefit-cost analyses was further codified in the "Economics and Environmental Principles and Guidelines for Water and Related Land Resources Implementation," Water Resources Council, 1983.

⁴ The latest being the "Animas-La Plata Project: Economic and Financial Analysis Update," June 1995 which I will rely on, in parts, here.

associated water rights. This is certainly a *financial* cost to the Bureau, but mostly represents a *transfer* from taxpayers to the Tribes. The land and water need not be put to alternative uses - if they are, then presumably they will be put to higher valued uses, yielding a net benefit for this alternative. But, as it stands, Alternative 6 has no direct *economic* impact at all, from a national point of view - only the ownership of land and water rights changes.⁵ That is the value of a nonstructural alternative - no real resources are used, their ownership is transferred from some parties to others.⁶ This is true regardless of the size of the financial costs of Alternative 6 to the Bureau.

As I have explained in previous testimony, it is not appropriate for the Bureau to conduct only a financial analysis. The reason for government agencies is that, at times, governments may spend taxpayer money that achieves real benefits for society. That is the point of a benefit-cost analysis. What real benefits does a project create and what real resources are consumed to generate these benefits? A non-structural alternative represents a transfer of resources, not their creation or destruction. The only relevant economic impacts of Alternative 6 (from a national point of view) are the legal and administrative expenses of conducting the land and water purchases. Undoubtedly, these may be considerable, but they are surely not \$273 million.

Alternative 4 is a different matter. Real resources will be expended to construct and operate the pumping station and dam, and there will be real environmental consequences. The benefit is that additional water is provided that can be put to a variety of uses. The value of a benefit-cost analysis is that it permits the value of this additional water to be compared with the resources consumed in order to provide it.

Costs

The Bureau states that the present value of the construction costs for Alternative 4 are \$195 million. Additional costs are required for wetlands and wildlife mitigation, the Navajo Nation Municipal pipeline, recreation development, and cultural resource protection, but I will omit the Bureau's water acquisition fund cost - that, again, is a financial cost but not an economic cost. It represents a transfer of property rights and, in itself, does not entail and commitment of real resources. The capitalized O&M costs are unclear: on page D-22, they are stated to be \$29.6 million, while on page E-43 they are reported to be \$53.6 million. To

⁵ The major changes in the 1995 Analysis Update resulted from the fact that in the benefit-cost analysis, "consideration is given to beneficial or adverse project effects evaluated from a national, rather than regional or local, viewpoint."

⁶ The transfer of resources, using taxpayer money, does entail a real cost to society in terms of reduced incentives for those paying the taxes. This is why government transfers do create real costs. However, this applies to all government transfers, and the Animas-La Plata project is but a small portion of total government transfer payments. Thus, I omit this consideration from my analysis of Alternative 6.

make matters worse, the former is based on a 5% discount rate and the latter on a 3.25% discount rate. In any case, the power costs do not represent the economic value of the power used in the project. The power costs (which appear low in any case - 8.1 mills/kWh, page E-33) reflect subsidized power rates. The proper economic cost is the market value of the power used in this project, regardless of any subsidized rate the Bureau might obtain for this particular project. Of course, the Bureau understands this, and did attempt to use market power rates in the last benefit-cost analysis, conducted in 1995. The combined power and energy charge used in the EIS is \$.016/kWh, far below market rates. I use the power generation cost cited in the Bureau's 1995 study of 46 mills/kWh, updating it for inflation from 1993 dollars to 1999 dollars.⁷ This yields a present value of O&M costs of \$62.51 million.

The Bureau has also omitted the increased salinity and decreased power costs downstream in the Colorado Basin. These may not be part of the financial obligations in the cost sharing agreement, but they are certainly relevant economic costs of the structural alternative. In fact, the Bureau did include these costs in the 1995 economic analysis, and they were substantial. I use the 1995 estimates as the basis for including these costs for Alternative 4, again updating these costs for inflation from 1993 to 1999. Salinity costs and reduced power generation are directly proportional to the size of the project, so I reduced the 1995 estimates according to the reduced size of the project (using 40,000 acre-feet of depletion to match the benefits calculation below). Present valued at a 5% discount rate, these amount to \$79.93 million.

Amazingly, the EIS does not mention the increased salinity below the San Juan River as an environmental impact of Alternative 4 at all, although it is mentioned (at page 2-68) as an opportunity cost relevant to Alternative 9. The Citizens' Progressive Alliance Alternative would compensate the Tribes for the opportunity costs that would be saved if the project is not undertaken. The Bureau omitted the adjustment of the salinity and downstream power costs for inflation from 1993 to 1999, but did identify these opportunity costs for Alternative 9 but not for Alternative 4, their preferred alternative.

Thus, the total economically relevant costs of Alternative 4 are approximately **\$393 million + any unquantified environmental costs.**

Benefits

What are the benefits of this project? The project yields 57,100 acre feet of water/year (depleted). What is this water worth. The Bureau offers 4 methods for valuing this water (actually for valuing the 40,000 acre feet of Indian water - this

⁷ The Bureau's 1995 analysis alternatively considers a power cost of 63 mills/kWh. Although this is probably a more realistic estimate of marginal power generation costs, I will use the conservatively lower figure.

analysis) in order to match the construction cost. I will not further consider this method of "valuation."

The Bureau's water value estimates are unrealistic. They are derived from data from California, a very different water market. Local water rights sales reveal prices ranging from \$550/acre foot to \$1580/acre foot (on the Florida River). Significantly, there are no sales on the Animas River, as there is still plenty of water available (and thus, no market for water rights yet exists). So, the \$2000/acre foot seems too high. It is certainly too high to be multiplied by the 57,000 acre feet of water. The proposed uses for the water reveal that it is not realistic to believe that there is a market for this quantity of water. Accordingly, I will use a more realistic value of water applied to the 40,000 acre feet of Indian water, although this still appears to be far too much water to have any beneficial use.

There may someday be a need for water to support 300,000 additional people in this area, but it is neither inevitable nor necessarily desired by the people who live here. In any case, that size potential population increase is far in the future, so any such benefits are worth little in today's dollars. Further, water is not presently the constraining factor for regional economic growth. It is a lack of jobs, particularly skilled service industry jobs, that limits population growth in this area. This project will have little impact on the ability of this region to sustain further growth.

35% of the Indian water (and 25% of the overall water) is for a coal-burning power plant. It is doubtful that such a coal-fired power plant makes economic sense.⁸ Since the value of water is *derived* from what it is used for, an uneconomic coal fired plant would not produce a positive value for water.⁹ Similar arguments can be made about the water for 400 acres of golf courses or the 4 new resorts. So, it appears that the Bureau has inflated estimates of both the quantity of water that can be valued and its market value. I will use a \$40 million water value, reflecting a combination of the lower water values in this area (compared with California) and the lack of need for so much water.

I obtain a water benefit of \$48.4 million (I used the 40,000 acre-feet times \$1000/acre foot, extended for a 100 year time period - the Bureau's estimate was

⁸ If a coal-burning power plant is really to be built as a result of this water, then the Bureau must analyze its environmental impacts beyond simply declaring a "Significant" impact that "dust and stack emissions would occur from operation of a coal-fired power plant and coal mine and a gas-fired power plant" (page 3-301).

⁹ The information in the EIS supports this conclusion. Estimated construction costs and annual revenues are provided for the non-binding uses, including the power plant (3-203). Assuming the 1,000 MW plant would operate at 80% capacity, the EIS estimates revenues of \$0.0192 per kWh, but the department of energy estimates the cost of producing electricity from new coal burning plants at \$0.043/kWh (see www.eia.doe.gov/oiaf/aeo98/ele_nuc.html). Thus, the \$739 million coal-fired power plant is neither economically nor environmentally feasible.

IN76-3 The scenarios for potential water sales as presented in Attachment D, Volume 2 are for illustrative purposes only, but are reasonable, based on actual market experience. Care should be taken in making any comparisons of these numbers with other water sales. For example, water sales in the Florida River area need to be closely examined from the standpoint of use, priority and dependability of the water supply each year. The water to be leased by the Colorado Ute Tribes represents an assured water supply and therefore is of high value. A more realistic comparison would be the value of M&I water sold on the Central Utah Project. There the M&I water is a firm water supply and is paid for on a yearly basis. The cost of this M&I water is in the \$150 per acre-foot range. The \$2,000 per acre-foot as described in your letter represents a one-time charge by the Tribes for the sale of M&I water over a 20-year time horizon. This would be equivalent to \$100 per acre-foot each year.

IN76-4 Refer to General Comment No. 12 for a discussion of growth.

IN76-5 The use of water for a coal-fired powerplant has been presented as potential use of water by the Colorado Ute Tribes. If such a plant became a reality an environmental impact statement would be completed at that time.

for a 20 year contract - but recognized that the benefits don't begin until the project's construction is complete).

Recreation benefits are similarly flawed. The estimated visitor days are placed at 218,400 for the Ridges Basin reservoir (1490 acres of surface area), while the estimated actual visitor days at McPhee reservoir (4500 acres of surface area) are 181,800.¹⁰ The Bureau attempts to compare Ridges Basin to the Ridgeway reservoir, due to the similar physical characteristics. However, the locations (including alternative water based recreation opportunities) are quite different and suggest that McPhee may be a better comparison site. It seems unrealistic to assume that Ridges Basin will have more visitors than McPhee, despite the latter being three times the size of the former.

The projected use of the Ridges Basin reservoir is also larger than the annual use of the Durango-Silverton narrow gauge railroad, a world renowned destination. The Bureau cites 52% of the Ridgeway reservoir use as camping, and says that "visitors to the proposed Ridges Basin Reservoir can be expected to participate in similar types of activities." (page 3-184) However, if we use 52% of the anticipated use is for camping, we get 113,568 annual camping trips, a quantity equivalent to around 45% of the total camping use for the entire San Juan National Forest. Given the proposed 196 camping units (page S-42) and a 6 month camping season, implies an average daily use of 3.2 people per camping unit over the entire six month season! At best, this intensity of use may be experienced during the shorter three month peak season. By any standard, the estimated visitation appears overstated.¹¹ Whatever the visitation level, much of the use will be diverted from other region reservoirs and cannot be viewed as a net addition to total recreation use.

Given the paucity of data and documentation regarding the derivation of recreation use estimates, I will make the following modifications: I will value half of the projected recreation days, use the Bureau's 1995 value/recreation day figure (\$12.51/day and update it for inflation), and include a 2% annual growth in recreation use (until 300,000 days are reached, then I freeze use at that level), the national estimate for reservoir based recreation demand. This gives a present value of 100 years of recreation benefits of \$36.6 million. If anything, I believe this still overestimates recreation benefits, particularly in light of the fact that the surface area of the reservoir is expected to vary from a maximum of 1500 acres to

IN76-6 While McPhee Reservoir is similar to the proposed Ridges Basin Reservoir, due to shared economic characteristics of the surrounding region, it does not share similar physical characteristics (e.g., size, geographic location, elevation). Consequently, the Bureau believes that Ridgway Reservoir is a better choice for comparison with the proposed Ridges Basin Reservoir because it shares both regional economic and physical characteristics. Although McPhee Reservoir is larger in size than the proposed Ridges Basin Reservoir, it has a lesser number of estimated user days. This is partly due to the fact that McPhee is primarily used for boating and fishing and not for camping, with fewer campsites than at the other reservoirs. The number of user days does not equal the actual number of visitors; one user day is equal to one visitor over a 12-hour period. For example, twelve visitors fishing for one hour is equal to one person at the campsite for 12 hours. Consequently, if campers make up 52% of user days (113,568 user days), then each of the 196 camping units would need to be occupied by 1.6 visitors during a six-month season, or by 3.2 visitors during the primary three-month tourist season. These numbers do not seem unrealistic. Since there is an increasing demand for reservoir-related recreation opportunities (both nationwide and in the State of Colorado), and there are a limited number of developed campsites in the area surrounding Ridges Basin, the Bureau feels that the proposed reservoir would have at least moderate visitation, but would not significantly take visitation away from other area reservoirs.

¹⁰ These are the numbers provided in the EIS. No documentation is provided, and many of the "estimated" visitor day figures appear unrealistic.

¹¹ The EIS (at 3-168) cites a study by Loomis et al. That "If recreation behavior as measured by the demand coefficients is the same in the surveyed region and the target region, then a model estimated for the surveyed region should accurately predict recreation use...in the target region." The Bureau misapplies this statement, however. The "demand coefficients" referenced include not only physical characteristics of the region by economic characteristics as well. These include proximity to population centers, proximity to transportation corridors, and availability of substitute sites. In this sense, McPhee Reservoir is a more suitable comparison than the Ridgeway Reservoir, which is only similar in terms of physical characteristics.

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a minimum of 870 acres (at pages S-39, S-40). What this means is that, some of the time, the reservoir will have a large ring of mudflats around it, with an adverse effect on the recreational experience.

Thus, the benefits of the structural project (Alternative 4) yield a present value of. **\$85 million**, for water and recreation.

IN76-7 Comment noted.

The Bottom Line

7

The benefit-cost analysis of Alternative 4 reveals that \$85 million of benefits are obtained for an economic cost of \$393 million, for a benefit-cost ratio of around 0.22, excluding the unquantified environmental damages¹² **Simply put, this project returns less than 22 cents for every dollar spent, or wastes at least \$308 million (\$393 million - \$85 million) of the nation's resources.** This calculation ignores the wildlife damage, water quality damage, rafting recreational losses, and all of the environmental quality impacts associated with the potential uses of the water.

8

But, what of the value of settling Indian water rights claims? That is a red herring. The Bureau should be forced to analyze the alternative of writing a check for \$308 million. The check is more straightforward than the Bureau's convoluted view of the "non-structural" alternative. The check avoids the environmental damage associated with the structural alternative. According to the Bureau's own estimates of the value of this water, the Tribes could simply take the check, purchase the water they desire, and have money left over. The check amounts to approximately **\$93,000 for every tribal member** (based on the Tribal population of 3287, page 1, Technical Appendix 1).

IN76-8 Comment noted. The Tribes have indicated that, as part of the Settlement Agreement, a cash buyout in lieu of water was not acceptable.

The only thing this project gives the Tribes is more water than they can possibly use - meaning that they will obtain cash by selling what they can - and some lucrative construction contracts associated with project construction - again, meaning cash. This is a convoluted, environmentally damaging, and economically wasteful way to transfer some cash to the Tribes. And, they get far less cash than a \$308 million check would provide for them.¹³ The Bureau should consider the alternative of paying the Tribes, in cash, the equivalent of the economic waste embodied in this project (the \$308 million would represent a financial cost to taxpayers, and financial gain to the Tribes, but not an economic cost to the nation). The Bureau also dismissed two alternatives (4 and 9) that do not cause the environmental damage that their proposed structural project does, and that do not involve the economic waste that they are seeking.

¹² Even if the Bureau's high estimate of \$80 million of benefits and low estimate of \$250 million of cost is used, the benefit-cost ratio is only .32. Interestingly, this is close to the same benefit-cost ratio that the Bureau found for the earlier and larger Animas-La Plata project.

¹³ Note that the nonstructural alternative is even less costly, in a financial sense, than this size payment. Both, however, are transfers, and have no real economic impact from a national point of view.

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The mission statement for the Bureau of Reclamation states

"The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public."¹⁴

IN76-9 Comment noted.

I consider this the Bureau's promise to the American people. With this EIS the Bureau has failed to deliver its promise:

Thank you for considering my comments.

Sincerely,



Dale E. Lehman

¹⁴ www.usbr.gov/main/what/mission-vision.html

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IN77

From: "Tony Littlejohn" <tlittle@frontier.net>
To: <ALPDSEISComments@uc.usbr.gov>
Date: 3/1/00 5:15PM
Subject: alp

I wish to offer my comment on the current DSEIS. My feeling all along is that yes, the Utes are of course entitled to the water they have been promised. However I am strongly against any form of ALP, believing that water can and should be appropriated to the Utes from elsewhere, such as McPhee reservoir. I see ALP as a squandering of tax dollars, and as an attempt to secure municipal and irrigation water uses in addition to the Ute compact. This is not right. Additionally, the damming or diverting of the Animas River would be environmentally criminal, as it is one of the last free flowing rivers left in Colorado. I'm sorry, ALP is a boondoggle project that can no longer be justified in this day and age. Sincerely, Tony Littlejohn, citizen of Mancos, Colorado.

- IN77-1 The potential for obtaining water from Mc Phee Reservoir has been evaluated. Please refer to General Comment No. 2.
- IN77-2 Refer to General Comment No. 2 for a discussion of project costs.
- IN77-3 Refer to General Comment No. 15 for a discussion concerning constructing a dam on the Animas River.

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IN78

February 10, 2000

Re: ANIMAS-LA PLATA PROJECT

Pat Schumacher
Bureau of Reclamation
835 E. 2nd Ave
Durango, CO 81301

Dear Mr. Schumacher:

The new ALP project should be re thought out. It keeps all the bad elements of the old project and offers nothing new. If we are building a smaller car does it make sense to use the design of an old semi truck or could some new ideas be used to make a more efficient project.

Pumping water up hill to a new lake with no irrigation and no current use seems a waste of half a billion dollars. I also suspect the irrigation is not completely dead. The future use of the water for a coal based power plant in this area of the country is a sin.

The ALP could destroy the entire rafting industry in Durango, Colorado. It amazes me that you can take away someone's lively hood and retirement plan and say too bad so sad. This industry employees over 500 seasonal workers and is a non-polluting industry in Durango that has a huge economic impact on the Durango area.

A dangerous low head dam will have to be put into the river in the center of the kayak course used for the Olympic trials to feed the pumps. This will effect thousands of recreation users of the Animas.

A very large (Ugly) (Loud) pump station will be placed next to our chamber of commerce and on the busiest section of highway in southwest Colorado (The San Juan Skyway will have a new attraction).

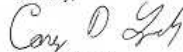
In an era where most cities are cleaning up their treasured rivers and natural resources it is ironic that an area as beautiful as Durango is destroying theirs.

The Ute water claims need to be settled but not this way. I see several solutions that will possibly work.

1. Allow the Utes in-stream water flows. These can be sold down stream or the Utes can build a delivery facility on Ute Land. Yes, this blows up the Colorado River Compact, so what.
2. Allocate funds for the purchase of water rights, as they become available.
3. Pay the Utes half a billion and walk.
4. Build a pumping station at Basin Creek.

Any of these solutions is a much much better alternative than the current version of the ALP.

Sincerely,



Casey D. Lynch

1940 Bodo Drive
Durango, Colorado 81301
(970) 247-0171
1-888-438-0171
FAX (970) 247-5514


McClendon & Lynch
Certified Public Accountants

482 Lewis St. • P.O. Box 807
Pagosa Springs, Colorado 81147
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FAX (970) 264-2874

IN78-1 This modified ALP Project is the result of several years of planning. Most recently the ALP Project was subjected to public debate and revision under the Romer-Schoettler process to reach final resolution of resolving the water rights claims of the two Colorado Ute Tribes. From this process, a reduced reservoir at Ridges Basin, a non-structural solution consisting of the purchase of water rights, and a non-structural solution of leaving water in the streams, were evaluated as possible solutions to resolving the water right claims and providing water to local municipalities. These alternatives have been thoroughly addressed in this FSEIS. Irrigation has been eliminated as part of the ALP Project. The potential uses such as a coal fired power plant represent possible non-binding uses. The Colorado Ute Tribes are not under any obligation to use the water in this manner. This use as well as others have been identified to evaluate potential environmental impacts.

IN78-2 Refer to General Comment No. 8 for a discussion of the project on river recreation. Although the flow of the river will be altered during pumping, it will have a minor impact on rafting and kayaking. No low head dam is planned at the pumping plant. Please see Attachment E in Volume 2 for engineering plans.

IN78-3 The noise and visual impacts to which the comment refers are addressed in the FSEIS. Specifically, Refined Alternative 4 Noise Impact 3 of the FSEIS and Refined Alternative 4 Visual Impact 1 of the FSEIS discuss the anticipated noise and visual impacts of the Durango Pumping Plant.

IN78-4 Comment noted.

IN78-5 Bullet No. 1 - The potential for leasing water downstream has been evaluated in the FSEIS as part of Alternative 9. The results are presented in Section 2.3.2.9. Reasons for rejecting this alternative are presented in Table 2-43 under the test of Practicability. However, this concept may have merit when combined with other alternatives. Bullet No. 2 -The purchase of water rights has been investigated under Refined Alternative 6. A thorough discussion on the difficulties associated with the purchase of water rights is contained in Chapter 5 of this FSEIS. Bullet 3 - The Tribes were offered a cash settlement which they rejected in favor of having "wet water" in a storage reservoir. Bullet No. 4 -Several locations for the Durango Pumping Plant were evaluated to minimize both cost and impacts to the environment. The present location was selected as the most preferred site.

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2608 Columbine Drive
Durango, Colorado 81301
April 10, 2000

Mr. Pat Schumacher, Manager
Four Corners Division
Bureau of Reclamation
835 East Second Avenue, Suite 300
Durango CO 81301

Re: Thoughts on the DSEIS for the Animas-La Plata Project

Dear Mr. Schumacher:

I am a Durango resident writing to express my support for Alternative 4 in the DSEIS for the Animas-La Plata Project. It is important that we settle the Ute Tribes' reserved water rights once and for all, not only to honor our promises to our Ute neighbors, but also to give certainty to the existing water uses on which our economy and livelihoods depend. In addition, Alternative 4 provides the necessary municipal water for Durango, without the City needing to build an additional reservoir on its own.

I request that Reclamation remain steadfast in its support for the preferred alternative in the draft SEIS. Giving the Southern Ute Indian and Ute Mountain Ute Tribes money to buy land and water rights will not settle their claims. If the Tribes buy water rights from non-Indians, they can only obtain the priority date of the seller, not their 1868 reserved rights priority date. Then, they must go to State Water Court to change the type and place of use to meet their needs. Much of the acquired water will be lost in satisfying water users who may be injured by the change, and the Tribes will still have to find a way to deliver the water to their points of need. This non-structural alternative will be more costly than A-LP, will not satisfy the Tribes' claims, and most importantly, the Tribes don't want it. The Tribes know what is best for them. The Ute people for a long time have consistently elected leaders who support A-LP. The Ute people want A-LP because it gives them water, not money, without disrupting the existing water use of their non-Indian neighbors.

I reject the opponents' argument that it's dumb to pump water uphill. Everyone who gets water from a well pumps water uphill, much of civilization in the West is dependent on water projects that pump water uphill, and the City of Durango has proposed to pump water uphill into Horse Gulch if A-LP isn't built.

I appreciate your consideration of my comments and my request that Alternative 4 remain as the Preferred Alternative.

Sincerely yours,

Gladys McBee
19701247-3615

Gladys McBee

IN79-1 Comments noted.